

) Case No.4:09cv818

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Therefore, Magistrate Judge Vecchiarelli's Report and Recommendation is **ADOPTED** and Petitioner's Writ of *Habeas Corpus* (Dkt. # 1) is **DISMISSED** and Respondent J. Grondolsky's Motion to Dismiss Petitioner's Motion to Vacate, Set Aside or Correct Sentence is **GRANTED**.

Furthermore, the court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and that there is no basis upon which to issue a certificate of appealability. 28 U.S.C. §2253(c); Fed. R. App. P. 22(b).

IT IS SO ORDERED.

Dated:1/8/2010

S/Christopher A. Boyko
CHRISTOPHER A. BOYKO
UNITED STATES DISTRICT JUDGE